

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD**

Original Application No.20/1232/2018, 1233/2018 & 1234/2018

Date of Order: 19.12.2018

Between:

A. Viswanatha Reddy, Gr. C,
S/o. late A. Bali Reddy, aged 60 years,
Occ: Retired SPM, Anantapur SO,
Anantapur Division, A.P.

...Applicant in OA 1232/2018

A. Thikkaiah, Gr. C,
S/o. late A. Mareppa, aged 64 years,
Occ: Retired Asst. Post Master, Anantapur HO,
Anantapur Division.

...Applicant in OA 1233/2018

A. Narayana Reddy, Gr. C,
S/o. late A. Pakkiri Reddy, aged 71 years,
Occ: Retired SPM, Anantapur Division, AP.

...Applicant in OA 1234/2018

And

1. Union of India, Rep. by
The Secretary to the Govt. of India,
M/o. Communications & IT,
Dept. of Post, New Delhi – 110 001.
2. The Chief Postmaster General,
AP Circle, Vijayawada – 10.
3. Post Master General,
Kurnool Region, Kurnool – 518 002.
4. The Director Postal Accounts,
A.P. TG Circles, Hyderabad – 500 001.
5. The Superintendent,
Anantapur Division, Anantapur – 515 001.

...Respondents in all OAs

Counsel for the Applicant	...	Mr. B. Gurudas (in all OAs)
Counsel for the Respondents	...	Mr.T.S.V.L.N. Swamy, Addl. CGSC (In OA 1232/2018)
		Mr.D. Satyaveer, Addl. CGSC (In OA 1233/2018)
		Mr. A. Praveen Kumar Yadav, Addl. CGSC (In OA 1234/2018)

CORAM:***Hon'ble Mr. B.V. Sudhakar ... Member (Admn.)******COMMON ORDER***
{As per Hon'ble Mr. B.V. Sudhakar, Member (Admn.)}

The OAs have been filed seeking retirement benefits with enhanced dearness allowance (DA). A common order is issued as the subject matter and the respondents are one and the same.

2. Brief facts of the case are that the applicants served the respondent organization at different levels and retired on different dates as mentioned as under:

S.No	O.A No.	No. Of Applicants	Dt. of Retirement
1	1232/2018	1	30.06.2006
2	1233/2018	1	30.06.2014
3	1234/2018	1	30.06.2007

On retiring from service, they have been granted pension, commutation, DCRG, leave encashment, CGIES with the DA as on the respective dates of their retirement. The applicants contend that the Government of India revise the DA twice a year on 1st January and 1st July to all central government employees and pensioners. On these dates, the DA is usually enhanced. The main spinal argument of the applicants is that they have worked for the preceding six months before the payment of enhanced DA. Hence, they are entitled for enhanced DA payable on the succeeding day of the retirement.

3. Heard learned counsel and perused the documents on record.

4. These cases are fully covered by a recent Order of this Tribunal in OA Nos. 1109/2016 & batch dated 10.12.2018. In that order, a reference was made to the judgment rendered by a Full Bench of the Hon'ble High Court of

Andhra Pradesh in W.P No.22042/2003 & batch dt 27.1.2005, wherein it was observed as under:

"The question would arise only in Writ Petition No 22042 of 2003 as the respondent therein also claimed DA instalments at 49%. As held by us supra, a Government servant who would be retiring on the last day of the month would cease to be the Government Servant by mid-night of that day and he would acquire status of pensioner and therefore he would be entitled for all the benefits given to a pensioner with effect from first day of the succeeding month. In Banerjee case (supra), the Supreme Court laid down that as soon as first day of the succeeding month commenced, petitioner retired and gave the benefit of enhanced DA. The same view has been consistently followed in subsequent decisions as well. To that extent it must be held that the learned Tribunal has taken correct view."

Further, while delivering the above verdict in OA Nos. 1109/2016 & batch, the observations of the Hon'ble Supreme Court in S. Banerjee Vs. Union of India, AIR 1990 SC 285; Chief General Manager, Telecom & Anr. Vs. K.J. George & Ors in CA No. 2907/2005 & 2908/2005, dt.22.02.2007 and Achhaibar Maurya vs State of Uttar Pradesh & Others in CA No 5877/07 [2008 (1) SCC (L&S) 519] were also considered.

The issue was dealt at length by deliberating in regard to law and rules, in OA 1109/2016 & batch. The final conclusion was to allow the relief sought as is being claimed in the present OAs. Being a covered case the details have not been reiterated.

5. However, when a similar claim made by similarly situated employees was allowed by this Tribunal in OA No. 213/2014 vide order dt. 24.06.2015, the same has been stayed by the Hon'ble High court in WP No. 4742/2016 vide order dt. 01.04.2016. Keeping the interim order of stay granted by the

Hon'ble High Court, this Tribunal in OA Nos.1109/2016 & batch vide order dt.10.12.2018 has granted relief to similarly placed persons subject to the out of the outcome of the WP No. 4742/2016 pending before the Hon'ble High Court. Following the order of this Tribunal in OA Nos.1109/2016 & batch dt.10.12.2018, the respondents are directed to consider as under:

- i) To re-fix the pension of the applicants as per the enhanced eligible D.A from the dates they have become pensioners and pay the arrears along with consequential benefits subject to the outcome of the judgment of the Hon'ble High Court in W.P no.4742/2016 filed against OA no 213 of 2014.
- ii) In case the verdict of the Hon'ble High Court is in favour of the applicants, the respondents to work out the arrears of pension calculated on enhanced D.A from the first day of retirement till the date of payment, at the highest Bank rate of interest allowed for term deposits of 3 years and beyond by S.B.I prevailing as on the date of the verdict of the Hon'ble High Court.

6. OAs are accordingly disposed of with the above directions, at the admission stage.

**(B.V. SUDHAKAR)
MEMBER (ADMN.)**

(Dictated in open court)
Dated, the 19th day of December, 2018

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